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12 **UNITED STATES DISTRICT COURT**

13

14 **DISTRICT OF NEVADA**

15

16 GREG LANDERS, Individually and ) Case No. :  
on behalf of a class of all )  
similarly situated persons, )

17 )

Plaintiff, )

18 )

v. )

19 )

20 QUALITY COMMUNICATIONS, INC., )  
BRADY E. WELLS, and ROBERT J. )  
HUBER, )

21 )

Defendants. )

**COMPLAINT**

22

23

24

25 The Plaintiff, GREG LANDERS, by his attorneys, Leon  
26 Greenberg Professional Corporation and Gabroy Law Offices, as and  
27 for a Complaint against the defendants, states and alleges, as  
28 follows:

1

2 JURISDICTION, PARTIES AND PRELIMINARY STATEMENT

3 1. This Court has original federal question jurisdiction  
4 over the claims presented in the First Claim for Relief herein  
5 pursuant to the Act of June 25, 1938, ch 676, 52 Stat 1069, 29  
6 USC Sections 201-219, known as the Fair Labor Standards Act ("the  
7 FLSA" or "the Act"), a law of the United States regulating  
8 interstate commerce, and specifically under the provisions of  
9 Section 16 of said act, as amended (29 U.S.C. § 216(b)).

10 2. The plaintiff, GREG LANDERS (the "plaintiff" or "named  
11 plaintiff") is a resident of Clark County and the State of Nevada  
12 and a former employee of the defendants.

13 3. The defendant, QUALITY COMMUNICATIONS, INC. (the  
14 "corporate defendant"), is a corporation formed and existing  
15 pursuant to the Laws of the State of Nevada or another  
16 jurisdiction and has its principal place of business in Clark  
17 County Nevada or its main place of business in the State of  
18 Nevada in Clark County Nevada.

19 4. The defendants, BRADY E. WELLS and ROBERT J. HUBER,  
20 (the "individual defendants") are the owners, manager, officers,  
21 directors and/or controlling agents of the corporate defendant  
22 and, as detailed herein, have acted as "employers or agents of an  
23 employer" of the plaintiff and the putative FLSA collective  
24 action members within the meaning of the FLSA and are as a result  
25 fully liable for all claims made herein.

26 5. The defendants engage in a for-profit business which has  
27 gross revenue in excess of \$500,000 per annum and are engaged in  
28 the production of goods for interstate commerce and/or the use

1 and/or handling of goods which have moved in interstate commerce  
2 as such terms are defined in the FLSA and are employers subject  
3 to the jurisdiction of the FLSA.

4       6. The plaintiff has been an employee of the defendants  
5 jointly for the purposes of the FLSA during the time period  
6 pertinent to this complaint, to wit, during a portion of the  
7 three years immediately preceding the initiation of this action.  
8 The plaintiff has performed labor and services in various  
9 occupations that are subject to the aforesaid provisions of the  
10 FLSA. These occupations include, but are not limited to, labor  
11 in defendants' cable television, phone, and internet service  
12 installation business.

13       7. That all of the various violations of law that are  
14 alleged herein were committed intentionally and/or willfully by  
15 the defendants.

## COLLECTIVE ACTION ALLEGATIONS

17       8. Pursuant to Section 16(b) of the FLSA, the individual  
18 plaintiff brings this Complaint as a collective action (also  
19 commonly referred to as an "opt-in" class), on behalf of himself  
20 and all persons similarly situated, to wit, a putative class of  
21 cable telephone, television, and internet service installation  
22 technicians employed by the defendants in the State of Nevada  
23 and/or the United States within three (3) years of the filing of  
24 this Complaint until entry of judgment after trial.

25       9. Plaintiff is informed and believes, and based thereon  
26 alleges that there are at least 50 putative collective action  
27 members. The actual number of collective action members is  
28 readily ascertainable by a review of the defendants' records

1 through appropriate discovery.

2       10. The number of class members is so numerous that joinder  
3 is impracticable and would involve many individual litigations.  
4 Disposition of these claims in a collective action rather than in  
5 individual actions will benefit the parties and the Court.

6       11. There is a well-defined community of interest in the  
7 questions of law and fact affecting the class as a whole.

8       12. Proof of a common or single set of facts will establish  
9 the right of each member of the class to recover. These common  
10 questions of law and fact predominate over questions that affect  
11 only individual class members. The individual plaintiff's claims  
12 are typical of those of the class.

13       13. A collective action is superior to other available  
14 methods for the fair and efficient adjudication of the  
15 controversy. Due to the typicality of the class members' claims,  
16 the interests of judicial economy will be best served by  
17 adjudication of this lawsuit as a class action. This type of  
18 case is uniquely well-suited for class or collective treatment  
19 since the employers' practices were uniform and the burden is on  
20 the employer to establish that its method for compensating the  
21 class members complies with the requirements of the FLSA.

22       14. The individual plaintiff will fairly and adequately  
23 represent the interests of the class and has no interests that  
24 conflict with or are antagonistic to the interests of the class.

25       15. The individual plaintiff and counsel are aware of their  
26 fiduciary responsibilities to the class members and are  
27 determined to diligently discharge those duties by vigorously  
28 seeking the maximum possible recovery for the class.

1       16. There is no plain, speedy, or adequate remedy other  
2 than by maintenance of this class action. The prosecution of  
3 individual remedies by members of the class will tend to  
4 establish inconsistent standards of conduct for the defendants  
5 and result in the impairment of class members' rights and the  
6 disposition of their interests through actions to which they were  
7 not parties.

## FACTUAL ALLEGATIONS UNDERLYING THE CLAIMS

9       17. The corporate defendant is in the business of providing  
10      electrical contracting services to the cable television industry,  
11      e.g., installing, constructing, maintaining, modifying, various  
12      electrical installations, including, if they are so engaged to do  
13      so, those involving cable television service, computer internet  
14      (DSL) service and telephone service, the corporate defendant also  
15      employing the plaintiff and the putative FLSA collective action  
16      members in connection with its providing of such services to its  
17      customers, such persons employed by the defendants typically  
18      being called "cable service installers" or "cable service  
19      technicians."

18. The individual defendants are directors, owners,  
officers and active managers of the corporate defendant and have  
complete control over the corporate defendant and have the  
authority and duty to make the corporate defendant's policies  
comply with the FLSA and have acted as employers for the purposes  
of the FLSA violations alleged herein in that such individual  
defendants have acted as agents of an employer knowing of the  
policies of the corporate defendant alleged herein that have  
violated the FLSA and/or by ordering, creating, implementing,

1 enforcing, and/or otherwise allowing and directing such policies  
2 continue despite having the authority to prevent such policies  
3 which violated the FLSA from taking place and despite actual or  
4 constructive knowledge that such policies were violating the FLSA  
5 and/or by failing to act to prevent or remedy such policies  
6 violating the FLSA in a wanton and willful disregard of the  
7 FLSA's requirements which the individual defendants were charged  
8 with knowing and complying with as a matter of law.

9       19. The compensation system used by the defendants for the  
10 plaintiff and those similarly situated was a *de facto* "piecework  
11 no overtime" system, meaning such employees were being paid a  
12 certain amount for each "piece" of work they performed pursuant  
13 to a schedule, the plaintiffs not being paid time and one-half  
14 their "regular hourly rate" for work in excess of 40 hours a week  
15 as required by the FLSA and Nevada law based upon the hours they  
16 actually worked each week and the total basic "piece rate" they  
17 were paid, such *de facto* compensation system existing even though  
18 defendants would produce certain false and misleading payroll  
19 records indicating that either proper overtime or some measure of  
20 overtime was being paid to the plaintiff and those similarly  
21 situated when, in fact, no such overtime was being paid  
22 whatsoever, or, alternatively, defendants utilized a compensation  
23 system that did pay some measure of overtime wages upon a  
24 designated hourly rate but failed to pay any overtime wages on  
25 the additional and substantial portion of the earnings of the  
26 plaintiff and those similarly situated that were paid by the  
27 defendants solely on a piece rate basis.

28       20. Alternatively, if defendants did not engage in a

1 "piecework no overtime" pay scheme, and paid the plaintiff and  
2 those similarly situated to the plaintiff a facially proper  
3 overtime wage demonstrated on their payroll records as time and  
4 one-half their regular hourly rate including all piecework  
5 earnings, the defendants failed to pay such persons for all  
6 overtime hours that they worked, the defendants furthering such  
7 scheme by requiring the plaintiff and those similarly situated to  
8 the plaintiff to record or otherwise certify that they were not  
9 working during periods of time that the defendants required and  
10 commanded them to work and when the defendants had actual  
11 knowledge they were so working.

12 21. Defendants, in furtherance of their scheme to deny  
13 the plaintiff and those similarly situated proper overtime pay as  
14 required by the FLSA would falsely list certain "overtime hours"  
15 and "regular hours" and "overtime compensation" on the  
16 plaintiff's and the putative class member's pay stubs, such  
17 listings being inaccurate in terms of hours actually worked and  
18 not reflecting any attempt to pay time and one-half the  
19 employees' true "regular rate" as required by the FLSA such  
20 purported "overtime" payments being based upon completely  
21 fictitious and knowingly false "regular rates" and "hours worked"  
22 that were concocted by the defendants.

23 22. Defendants' violations of the FLSA were willful in that  
24 defendants were aware the method they were purporting to pay  
25 overtime under was illegal and violated the FLSA; such violations  
26 were also willful because defendants were aware their "piecework  
27 no overtime" pay scheme and/or their scheme to not record the  
28 true hours worked by their employees and pay proper overtime for

1 all such hours of work had been the subject of prior lawsuits by  
2 private parties alleging such schemes violated the FLSA and prior  
3 investigations and settlements supervised by the United States  
4 Department of Labor based upon such compensation systems'  
5 violation of the FLSA; defendants also evidenced their willful  
6 violation of the FLSA by concocting a false payroll record as to  
7 overtime pay and hours worked that had no relationship to the  
8 overtime hours actually worked or the actual payment of overtime,  
9 such false record being manufactured by the defendants in an  
10 attempt to conceal their knowing and willful violations of the  
11 FLSA.

12 AS AND FOR A FIRST CLAIM FOR RELIEF PURSUANT TO THE  
13 FAIR LABOR STANDARDS ACT AGAINST ALL DEFENDANTS ON BEHALF OF  
14 THE NAMED PLAINTIFF AND ALL OTHERS SIMILARLY SITUATED

15 23. The named plaintiff brings this First Claim for Relief  
16 pursuant to 29 U.S.C. § 216(b) against all defendants on behalf  
17 of himself and all other similarly situated persons, if any, who  
18 consent in writing to join this action.

19 24. Pursuant to the applicable provisions of the FLSA, 29  
20 U.S.C. § 206 and § 207, the named plaintiff and those similarly  
21 situated were entitled to a minimum wage and an overtime hourly  
22 wage of time and one-half their regular hourly wage for all hours  
23 worked in excess of forty hours per week, the named plaintiff and  
24 those similarly situated worked more than 40 hours per week for  
25 the defendants, and the defendants willfully failed to make said  
overtime and/or minimum wage payments.

26 25. The named plaintiff on behalf of himself and all other  
27 similarly situated persons who consent in writing to join this  
28 action, seeks, on this First Claim for Relief, a judgment against

1 all defendants for unpaid overtime wages and/or unpaid minimum  
2 wages, and additional liquidated damages of 100% of any unpaid  
3 minimum wages and/or overtime wages, such sums to be determined  
4 based upon an accounting of the hours worked by, and wages  
5 actually paid to the named plaintiff and any such other persons  
6 who consent to join this action, and the plaintiff also seeks an  
7 award of attorney's fees, interest and costs as provided for by  
8 the FLSA.

9

10 Wherefore, the plaintiff demands a judgment on all claims for  
11 relief as alleged aforesaid.

12 Plaintiff demands a trial by jury on all issues so triable.

13

14 Dated: Clark County, Nevada  
15 December 1, 2011

16

Yours, etc.,

17

/s/ *Leon Greenberg*

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Leon Greenberg, Esq.

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LEON GREENBERG PROFESSIONAL CORPORATION

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Attorney for the Plaintiff

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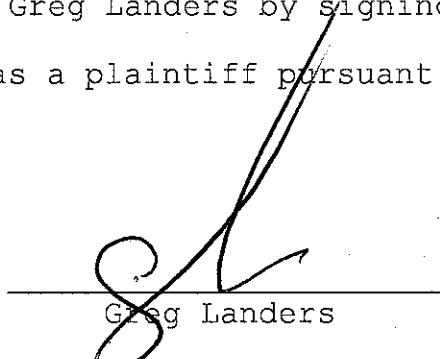
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CONSENT TO JOINDER

Greg Landers by signing below,  
hereby consents to join this case as a plaintiff pursuant to 29  
U.S.C. 216(b).

  
\_\_\_\_\_  
Greg Landers